

Message Text

CONFIDENTIAL

PAGE 01 BONN 04860 01 OF 06 162000Z
ACTION EUR-12

INFO OCT-01 ISO-00 CIAE-00 PM-05 INR-10 L-03 ACDA-12
NSAE-00 PA-01 SS-15 SP-02 USIA-06 TRSE-00 ABF-01
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P R 161945Z MAR 78
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TO SECSTATE WASHDC PRIORITY 6834
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INFO AMCONSUL STUTTGART
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C O N F I D E N T I A L SECTION 01 OF 06 BONN 04860

CINCEUR FOR COL. SANDERS; CINCUSAFE FOR DPC;
USAREUR FOR DCSPER, AEAJA-1A, AND POLAD

E.O. 11652: GDS
TAGS: PINT PEPR MARR ELAB GW US
SUBJECT: ALLIED FORCES HIRING PRACTICES IN FRG

REFS: (A) BONN 3108 DTG 171946Z FEB 78;
(B) STATE 54254 DTG 010057Z MAR 78

BEGIN SUMMARY. FOLLOWING THE MARCH 3 MEETING IN THE
EMBASSY WITH JUNG OF OETV AND WARGIN OF THE FINANCE
MINISTRY, THE CHARGE AND EMBOFFS MET MARCH 7 WITH THE
CIVILIAN PERSONNEL DIRECTOR OF USAREUR TO DISCUSS NEXT
STEPS IN NEGOTIATIONS WITH THE FRG ON THE SUBJECT
QUESTION. THEY RECOGNIZED THE INABILITY OF THE US SIDE
TO ACCEPT A NUMERICAL CEILING ON DEPENDENT HIRE, FOR
REASONS STATED IN REF (B). AT THE SAME TIME, THEY
REALIZED THAT PRESSURES ON THE FRG GOVERNMENT TO
FORMALIZE WHAT IT CONSIDERS TO BE AGREEMENT IN PRINCIPLE
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 BONN 04860 01 OF 06 162000Z

TO A CEILING OF 11,000 ARE GROWING. THE EMBASSY/USAREUR
CONCLUSION WAS THAT ANY CHANCE OF RESOLVING THE ISSUE
DEPENDS ON OUR ABILITY TO PROVIDE FORMAL ASSURANCES TO
THE FRG THAT, IN PRACTICE, THE US FORCES WOULD NOT EXCEED
CURRENT LEVELS IN EFFECT (11,000). SUCH ASSURANCES WOULD AT
LEAST HELP ALLEVIATE THOSE PRESSURES WHICH ARE INDUCED
BY FEARS OF IMPENDING LAY-OFFS OF LARGE NUMBERS OF

GERMAN WORKERS.

ASIDE FROM PRESSING FOR A NUMERICAL LIMITATION, OETV

IS ALSO CONTINUING ITS EFFORTS TO HAVE DEPENDENTS IN
LOCAL NATIONAL (LN) POSITIONS HIRED UNDER THE SAME
WORKING CONDITIONS AS LN EMPLOYEES -- A POSITION WHICH
WE AND USAREUR VIEW PRIMARILY AS AN ATTEMPT BY THE UNION
TO CONSOLIDATE ITS BARGAINING POSITION VIS-A-VIS THE
US FORCES. THE FEDERAL GOVERNMENT IS EXAMINING WAYS OF
MAKING SUCH A DEVELOPMENT FINANCIALLY MORE ATTRACTIVE
TO THE US, POSSIBLY THROUGH NEW FRG LEGISLATION.

WITH REGARD TO THE DEPARTMENT'S REQUEST FOR EMBASSY VIEWS
ON THE FEASIBILITY OF APPROACHING THE FRG WITH A LABOR
COST-SHARING PROPOSAL, THERE IS A DANGER THAT SUCH A
PROPOSAL COULD BE VIEWED AS A REQUEST FOR OFFSET BY
ANOTHER NAME AND THAT IT COULD ALSO BE CONSIDRED IN THE
CONTEXT OF CURRENT DISAGREEMENTS OVER MONETARY POLICY.
IN OUR VIEW SUCH A PROPOSAL SHOULD, THEREFORE, BE
ADVANCED ONLY AFTER HIGH LEVEL USG REVIEW. IT SHOULD
ALSO BE EXAMINED IN THE LIGHT OF OTHER PENDING PROPOSALS
FOR FRG EXPENDITURES ON DEFENSE-RELATED MATTERS.

CONFIDENTIAL

CONFIDENTIAL

PAGE 03 BONN 04860 01 OF 06 162000Z

ACTION REQUESTED: WASHINGTON VIEWS ON THE PROPOSED
NEGOTIATING POSITION IN PARA 10 BELOW.

CONFIDENTIAL

NNN

CONFIDENTIAL

PAGE 01 BONN 04860 02 OF 06 162007Z

ACTION EUR-12

INFO OCT-01 ISO-00 CIAE-00 PM-05 INR-10 L-03 ACDA-12

NSAE-00 PA-01 SS-15 SP-02 USIA-06 TRSE-00 ABF-01

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P R 161945Z MAR 78
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TO SECSTATE WASHDC PRIORITY 6835
SECDEF WASHDC PRIORITY
INFO AMCONSUL STUTTGART
CINC EUR VAIHINGEN
CINC USAREUR HEIDELBERG
CINC USAF RAMSTEIN

C O N F I D E N T I A L SECTION 02 OF 06 BONN 04860

1. EMBOFFS MET WITH WARGIN MARCH 3 PRIOR TO THEIR MEETING THE SAME DAY WITH OTTO JUNG OF THE OETV BOARD OF DIRECTORS. WARGIN STATED THAT THE FINANCE MINISTRY IS EXAMINING POSSIBLE WAYS OF MAKING THE OETV DEMAND THAT US DEPENDENTS IN LN POSITIONS BE HIRED UNDER THE COMBINED TARIFF AGREEMENT (CTA) AND SUBJECT TO GERMAN LABOR AND PERSONNEL REPRESENTATION LAW FINANCIALLY ATTRACTIVE TO THE US FORCES. WARGIN SAID THAT HIS MINISTRY HAD BEEN READING THE GAO REPORT, PARTICULARLY PAGES 9 AND 10, VERY CAREFULLY. HE THOUGHT THAT LEGISLATION MIGHT BE FEASIBLE THAT WOULD AUTHORIZE THE FEDERAL GOVERNMENT TO EXEMPT US DEPENDENTS AND THE FORCES AS THEIR EMPLOYER FROM WITHDRAWAL/ CONTRIBUTIONS OF GERMAN TAXES, SOCIAL SECURITY (INCLUDING HEALTH) AND CONTRIBUTIONS TO GERMAN UNEMPLOYMENT INSURANCE.

CONFIDENTIAL

CONFIDENTIAL

PAGE 02 BONN 04860 02 OF 06 162007Z

MEETING WITH JUNG, OETV

2. AT THE MEETING WITH JUNG, WHICH WARGIN ALSO ATTENDED, JUNG STATED THAT FOR SOME YEARS THE OETV HAD OBSERVED THE GROWING PRACTICE OF THE US FORCES OF HIRING US DEPENDENTS AND TOURISTS INTO LN POSITIONS, UNTIL THEY NOW NUMBERED 15,000 (INCLUDING PART-TIME, INTERMITTENT AND TEMPORARY). THE SOFA IN ARTICLE IX(4) CLEARLY PROVIDED THAT LOCAL LABOR WOULD BE PERFORMED BY WORKERS FROM THE LOCAL LABOR MARKET. SINCE EARLY 1976 THE OETV HAD UNDERTAKEN TO PROJECT THIS MATTER INTO THE POLITICAL ARENA IN TERMS OF ITS TWO MAJOR ASPECTS: (A) HOW TO GET THE US FORCES TO COMPLY WITH THE NATO SOFA, AND (B) HOW TO GET THE US DEPENDENTS EMPLOYED IN LN POSITIONS TO BE PAID UNDER THE CTA AND THEIR WORKING CONDITIONS TO BE GOVERNED BY GERMAN LABOR AND PERSONNEL REPRESENTATION LAWS. HE

STATED THAT THE SIDE-BY-SIDE PROBLEM -- DEPENDENTS WORKING ALONGSIDE OF GERMANS IN LN POSITIONS WITH UTTERLY DIFFERENT PAY AND OTHER WORKING CONDITIONS -- AGGRAVATED THE PROBLEM CAUSED BY THE GROWING NUMBER OF DEPENDENTS IN LN POSITIONS.

3. JUNG SAID THAT WHILE THERE HAD BEEN USEFUL STATEMENTS ISSUED BY USAREUR HEADQUARTERS CONCERNING THIS MATTER, THE WILLINGNESS OF THE US FORCES REALLY TO ADHERE TO THEIR ASSURANCES HAD BEEN CAST IN DOUBT BY SUBSEQUENT STATEMENTS FROM SOME QUARTERS. HE MENTIONED THAT THE OETV WAS DISTURBED BY THE PRACTICE OF THE US FORCES, WHEN THEY TURN OVER A SERVICE FUNCTION TO A PRIVATE ENTERPRISE ON A CONTRACT BASIS, SIMPLY TO SEPARATE OUT THEIR GERMAN EMPLOYEES -- WITH THE MINIMUM NOTICE OR SEPARATION PAY REQUIRED BY GERMAN LAW -- WHO HAD CONFIDENTIAL

CONFIDENTIAL

PAGE 03 BONN 04860 02 OF 06 162007Z

PREVIOUSLY PERFORMED THAT FUNCTION, RATHER THAN ALSO OBLIGATING THE PRIVATE ENTERPRISE TO EMPLOY THOSE PERSONNEL.

4. JUNG SEEMED TO ACKNOWLEDGE (BY HIS INCONSISTENT ARGUMENTS THAT THE US FORCES SHOULD COMPLY WITH THE NATO SOFA, THAT IS, WITH THE FRG LEGAL READING OF ARTICLE IX(4), AND SHOULD HAVE ITS DEPENDENTS IN LN POSITIONS HIRED UNDER THE CTA AND GERMAN WORKING CONDITIONS) THAT THE OETV WAS ACCEPTING DEPENDENT HIRE AS A FAIT ACCOMPLI. HE DID NOT MENTION THE FIGURE OF 11,000, BUT DID SEEM TO SUGGEST THAT THE NUMBERS PROBLEM MIGHT BE ALLEVIATED IF THE US DEPENDENTS WERE EQUATED IN THEIR RIGHTS AND SALARIES TO THEIR LN COUNTERPARTS.

5. A MEMCON OF THE MEETING WITH JUNG HAS BEEN POUCHED TO EUR/CE (KLINGAMAN AND LAUDERDALE), L/EUR (WILLIS), AND L/PM (BOREK).

MEETING WITH USAREUR CIVILIAN PERSONNEL DIRECTOR

6. USAREUR CIVILIAN PERSONNEL DIRECTOR CIPOLLA AND OTHER OFFICIALS FROM HEIDELBERG MET WITH EMBOFFS AND SUBSEQUENTLY WITH THE CHARGE ON MARCH 7. AFTER THEY HAD BEEN BRIEFED ON THE PREVIOUS WEEK'S MEETING WITH JUNG AND WARGIN, WE DISCUSSED DEVELOPMENT OF A JOINT EMBASSY-USAREUR POSITION WHICH MIGHT BE PRESENTED FOR WASHINGTON CONSIDERATION BEFORE FURTHER DISCUSSIONS WITH THE FRG.

7. CIPOLLA EMPHASIZED THE DOD VIEW CONTAINED IN PARA 6 OF REFTEL (B). HE ALSO STATED THAT CURRENTLY THE

CONFIDENTIAL

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CONFIDENTIAL

PAGE 01 BONN 04860 03 OF 06 162010Z
ACTION EUR-12

INFO OCT-01 ISO-00 CIAE-00 PM-05 INR-10 L-03 ACDA-12
NSAE-00 PA-01 SS-15 SP-02 USIA-06 TRSE-00 ABF-01
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INFO AMCONSUL STUTTGART
CINC EUR VAIHINGEN
CINC USAREUR HEIDELBERG
CINC USAFE RAMSTEIN

C O N F I D E N T I A L SECTION 03 OF 06 BONN 04860

DEPENDENT AND TOURIST FULL-TIME HIRE IN LN POSITIONS WAS
10,171 -- I.E., WELL UNDER 11,000. THIS CORRECTED
REPORTS THE EMBASSY HAD BEEN RECEIVING THAT SUCH US
HIRE WAS WELL OVER 11,000.

8. WITH REGARD TO THE INFORMATION THAT THE FINANCE
MINISTRY WAS EXAMINING WAYS OF MAKING IT POSSIBLE UNDER
FRG LEGISLATION TO BRING US DEPENDENTS IN LN POSITIONS
UNDER GERMAN WAGES AND WORKING CONDITIONS, USAREUR
OFFICIALS CONSIDERED THIS AN INTERESTING DEVELOPMENT.
NEVERTHELESS, THEY WERE OF THE PRELIMINARY OPINION THAT
A CHANGE-OVER TO GERMAN WAGE CONDITIONS WOULD BE
POSSIBLE IF AT ALL ONLY FOR US CITIZENS EMPLOYED IN NON-
APPROPRIATED FUND POSITIONS. THEY NOTED THAT THE
QUESTION OF WHETHER US LAW WOULD PERMIT US NATIONALS IN
APPROPRIATED FUND POSITIONS TO BE HIRED UNDER OTHER THAN
US WORKING CONDITIONS AND BE PAID OTHER THAN IN DOLLARS
WAS CURRENTLY UNDER EXAMINATION IN WASHINGTON.

CONFIDENTIAL

CONFIDENTIAL

PAGE 02 BONN 04860 03 OF 06 162010Z

9. IN DISCUSSING HOW TO PUT TOGETHER A NEGOTIATING PROPOSAL FOR PRESENTATION TO THE FRG, IT WAS RECOGNIZED THAT -- IN LIGHT OF THE DOD POSITION SUMMARIZED IN REFTEL (B) AND THE OTHER FACTORS MENTIONED -- IT WOULD NOT BE POSSIBLE TO ACCEPT THE FIGURE OF 11,000 AS A HIRING CEILING FOR US CITIZENS IN LN POSITIONS. THIS WOULD BE INCONSISTENT WITH WHAT WE MAINTAIN IS A LEGAL RIGHT, UNDER OUR INTERPRETATION OF THE NATO SOFA AND SUPPLEMENTARY AGREEMENT (SA). AT THE SAME TIME, IT WAS RECOGNIZED THAT THE FRG DOES NOT ACCEPT THE US INTERPRETATION BUT MAINTAINS, AS WAS STATED IN STATE SECRETARY HERMES' APRIL 1976 LETTER TO AMBASSADOR HILLENBRAND, THAT AGREEMENT BY THE FRG TO THE EMPLOYMENT OF ANY DEPENDENTS IN LN POSITIONS IS A "CONCESSION." MOREOVER, THE FEDERAL GOVERNMENT MAY HAVE SOME REASON FOR BELIEVING THAT IT HAS OBTAINED US AGREEMENT IN PRINCIPLE TO A CEILING OF 11,00, AND HAS PUBLICLY COMMITTED ITSELF TO THIS VIEW THROUGH THE STATEMENT OF STATE SECRETARY HAEHSE OF THE FINANCE MINISTRY, IN REPLY TO A PARLIAMENTARY QUESTION, IN RELIANCE ON WHAT HE CALLED AN ASSURANCE FROM HEADQUARTERS USAREUR (PARA 2, REF A).

(COMMENT: THE FEDERAL GOVERNMENT'S BELIEF MAY BE BASED ON USAREUR AND EMBASSY CONCURRENCE IN THE MINUTES OF A JANUARY 12, 1977 MEETING PREPARED BY THE GERMAN SIDE, WHICH RECITED THAT THE US FORCES WERE PREPARED TO LIMIT THE NUMBER OF US CITIZENS IN LN POSITIONS TO 11,000 BUT FAILED TO CHARACTERIZE THE FIGURE AS A TRIGGER FOR FURTHER CONSULTATIONS. OUR LETTER OF CONCURRENCE IN THE MINUTES DID NOT COMMENT ON THIS OMISSION BUT DID STATE THAT THE US SIDE VIEWED THE STATEMENTS AND CONFIDENTIAL

CONFIDENTIAL

PAGE 03 BONN 04860 03 OF 06 162010Z

PROPOSALS MADE AT THE JANUARY 12, 1977 MEETING AS PART OF A PACKAGE, CERTAIN PARTS OF WHICH REMAINED UNDER EXAMINATION BY BOTH SIDES. THE GERMANS MAY HAVE CHOSEN TO CONSTRUE OUR LACK OF COMMENT AS A CONSENT TO AN ABSOLUTE CEILING. AS POINTED OUT IN REFTEL (A), THE US SIDE HAS ALWAYS VIEWED THE 11,000 FIGURE AS A MERE TRIGGER FOR CONSULTATIONS. USAREUR BROUGHT THE THRESHOLD CHARACTER OF THE 11,000 FIGURE TO THE ATTENTION OF THE FINANCE MINISTRY AS RECENTLY AS JANUARY 12, 1978 IN RESPONSE TO THE MINISTRY'S REQUEST FOR INFORMATION FOR USE BY STATE SECRETARY HAEHSE IN ANSWER TO THE PARLIAMENTARY QUESTION REPORTED IN PARA 2, REFTEL (A). AS REPORTED REFTEL (A), THE THRESHOLD CHARACTER OF THE

FIGURE DID NOT APPEAR IN HAEHSER'S FEBRUARY 15 STATEMENTS
IN THE BUNDESTAG. WE WOULD BRING THIS TO THE ATTENTION
OF THE GERMANS IN FUTURE NEGOTIATIONS.)

CONFIDENTIAL

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CONFIDENTIAL

PAGE 01 BONN 04860 04 OF 06 162020Z
ACTION EUR-12

INFO OCT-01 ISO-00 CIAE-00 PM-05 INR-10 L-03 ACDA-12
NSAE-00 PA-01 SS-15 SP-02 USIA-06 TRSE-00 ABF-01
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P R 161945Z MAR 78
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INFO AMCONSUL STUTTGART
CINC EUR VAIHINGEN
CINC USAREUR HEIDELBERG
CINC USAFE RAMSTEIN

C O N F I D E N T I A L SECTION 04 OF 06 BONN 04860

10. GIVEN THESE DIVERGENT POSITIONS, WE CONSIDERED
THAT, IF ANY AGREEMENT WHICH WOULD DAMPEN THE PRESENT
CONTROVERSY AND MEET THE DEMANDS OF THE FRG FOR
RESOLVING THE MATTER WAS TO BE REACHED, IT WOULD BE
NECESSARY FOR THE USG TO GO AS FAR AS POSSIBLE, SHORT OF
AGREEING TO A NUMERICAL CEILING, IN MEETING FRG CONCERNS.
TO THIS END, THE EMBASSY AND USAREUR OFFICIALS
AGREED TO RECOMMEND FOR WASHINGTON CONSIDERATION A
NEGOTIATING POSITION CONSISTING OF TWO ELEMENTS:

A. A STATEMENT TO THE FRG THAT, UNDER OUR INTER-
PRETATION OF THE RELEVANT AGREEMENTS, WE COULD NOT BIND
OURSELVES TO ANY FIXED CEILING, (WE WOULD
REITERATE OUR POSITION THAT, UNDER THE RELEVANT AGREE-
MENTS, THE COMPOSITION OF THE FORCE AND OF THE CIVILIAN
COMPONENT IS FOR EXCLUSIVE DETERMINATION BY THE US AND
THAT THE US FORCES HAVE THE RIGHT TO DETERMINE THE

CONFIDENTIAL

CONFIDENTIAL

PAGE 02 BONN 04860 04 OF 06 162020Z

NUMBER OF LN POSITIONS REQUIRED.)

B. THIS STATEMENT WOULD BE COUPLED WITH ASSURANCES THAT, BASED ON THE FORCES' EXPERIENCE OVER THE PAST TWO YEARS, NO SIGNIFICANT CHANGES IN THE STATUS QUO ARE CONTEMPLATED. IF PRESSED TO DEFINE STATUS QUO, WE WOULD POINT TO THE FIGURE OF 10,958 US PERSONNEL IN LN POSITIONS GIVEN TO THE FRG AS APPLICABLE AT THE END OF FY 77 AND TO THE MAIN POINTS OF THE STATEMENT MADE BY CIPOLLA TO THE USAREUR HEAD WORKS COUNCIL IN HEIDELBERG ON JANUARY 19, 1978. IF NECESSARY WE WOULD INCLUDE THE MAIN POINTS IN A FORMALIZED DOCUMENT, AS A REITERATION OF US FORCES POLICY FORMING PART OF THE ASSURANCES THAT, BASED ON THE FORCES' EXPERIENCE OVER THE PAST TWO YEARS, NO SIGNIFICANT CHANGES IN THE STATUS QUO ARE CONTEMPLATED. IF PRESSED TO DEFINE STATUS QUO, WE WOULD POINT TO THE FIGURE OF 10,958 US PERSONNEL IN LN POSITIONS GIVEN TO THE FRG AS APPLICABLE AT THE END OF FY 77 AND TO THE MAIN POINTS OF THE STATEMENT MADE BY CIPOLLA TO THE USAREUR HEAD WORKS COUNCIL IN HEIDELBERG ON JANUARY 19, 1978. IF NECESSARY WE WOULD INCLUDE THE MAIN POINTS IN A FORMALIZED DOCUMENT, AS A REITERATION OF US FORCES POLICY FORMING PART OF THE STATUS QUO TO WHICH NO SIGNIFICANT CHANGES ARE CONTEMPLATED. THE MAIN POINTS, SUBJECT TO SOME VARIATIONS IN POINT (2) DEPENDING ON WHETHER THE EMPLOYING AGENCY IS APPROPRIATED OR NON-APPROPRIATED FUND, ARE:

(1) NO GERMAN EMPLOYEE WILL BE SEPARATED TO
CREATE EMPLOYMENT OPPORTUNITIES FOR DEPENDENTS;

(2) WHEN AN LN JOB VACANCY OCCURS, QUALIFIED
CONFIDENTIAL

CONFIDENTIAL

PAGE 03 BONN 04860 04 OF 06 162020Z

LN EMPLOYEES HAVE THE FIRST PRIORITY TO FILL IT;

(3) IN THE EVENT OF A RIF, DEPENDENTS IN
CANCELLED LN POSITIONS WILL BE TERMINATED FIRST, AND
LN EMPLOYEES WITH JOB PROTECTION RIGHTS MAY BUMP
DEPENDENTS IN SIMILAR LN POSITIONS WITHIN THE SAME
COMMUTING AREA;

(4) IF A QUALIFIED FORMER GERMAN EMPLOYEE

REQUESTS REEMPLOYMENT CONSIDERATION WITHIN 12 MONTHS AFTER SEPARATION DUE TO RIF, THE DEPENDENT PREFERENCE PROCEDURE WILL NOT APPLY; AND

(5) NON-DEPENDENT US NATIONALS ARE NOT EMPLOYED INTO LN POSITIONS EXCEPT WHEN EXTENSIVE RECRUITMENT EFFORTS FAIL TO PRODUCE A QUALIFIED US DEPENDENT OR GERMAN APPLICANT.

11. IT WAS ALSO AGREED THAT, PENDING APPROVAL OF A US POSITION, WE SHOULD SEEK TO HEAD OFF THE PRESENTATION TO US BY THE FOREIGN OFFICE OF ANY FORMAL PROPOSAL FOR AN AGREEMENT ON A CEILING OF 11,000 AND ALSO TO DISCOURAGE THE DEVELOPMENT OF LEGISLATIVE PROPOSALS FOR THE EXEMPTION OF DEPENDENTS HIRED UNDER FRG WORKING CONDITIONS FROM CERTAIN CONTRIBUTIONS REQUIRED BY GERMAN LAW.

12. IT APPEARED TO US THAT THE PRIMARY PUSH FOR THIS LATTER PROPOSAL -- SUBMISSION OF DEPENDENTS TO EQUAL PAY AND BENEFITS WITH LN EMPLOYEES -- COMES FROM THE OETV, WHOSE MAIN INTEREST SEEMED TO BE TO CONSOLIDATE ITS CONTROL OVER EMPLOYEES OF THE US FORCES AND THUS OBTAIN A GREATER VOICE IN LABOR POLICY. AT PRESENT, FOR EXAMPLE, WHILE IT REQUIRES CUMBERSOME AND TIME-CONSUMING NEGOTIATIONS WITH THE WORKS COUNCILS TO HAVE LN EMPLOYEES PERFORM CERTAIN TASKS DURING HOURS THAT MAY BE CONFIDENTIAL

CONFIDENTIAL

PAGE 04 BONN 04860 04 OF 06 162020Z

UNUSUAL FOR GERMANY, THE DEPENDENTS IN LN POSITIONS ARE FREE AND OFTEN WILLING TO PERFORM THESE TASKS, THUS TAKING THESE MATTERS OUT FROM UNDER UNION AND WORKS COUNCIL CONTROL. WHILE THIS TYPE OF EVASION AGGRAVATES

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PAGE 01 BONN 04860 05 OF 06 162026Z
ACTION EUR-12

INFO OCT-01 ISO-00 CIAE-00 PM-05 INR-10 L-03 ACDA-12

NSAE-00 PA-01 SS-15 SP-02 USIA-06 TRSE-00 ABF-01

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C O N F I D E N T I A L SECTION 05 OF 06 BONN 04860

THE DEPENDENT HIRE PROBLEM AND HAS BEEN EMPHASIZED BY THE OETV, WE ARE AWARE THAT SUBMITTING DEPENDENTS IN LN POSITIONS TO GERMAN LAW WOULD SET THEM APART IN THEIR RIGHTS AND BENEFITS FROM US NATIONALS IN OTHER THAN LN POSITIONS, AND THUS CREATE A NEW SET OF PROBLEMS.

13. SINCE THE MEETING OF MARCH 7 WITH CIPOLLA, WE HAVE LEARNED THAT THE FRG FONOFF IS PREPARING A NOTE VERBALE TO THE EMBASSY WHICH WOULD PROPOSE AGREEMENT ON A CEILING OF 11,000 FOR DEPENDENT HIRE, AND WHICH WOULD OFFER THE FORCES THE RIGHT TO HIRE NON-DEPENDENT US NATIONALS INTO LN POSITIONS IF THE RELEVANT FRG LABOR MARKET CAN PRODUCE NO QUALIFIED LN'S FOR THOSE POSITIONS (E.G., BUSBOYS AT RECREATION CENTERS, PRIMARILY DURING PEAK SEASON). WE WILL MEET NEXT WEEK WITH RUMPF OF THE FOREIGN OFFICE TO EXPLORE THE POSSIBILITY OF HAVING THE NEW FRG CONFIDENTIAL

CONFIDENTIAL

PAGE 02 BONN 04860 05 OF 06 162026Z

PROPOSAL DISCUSSED WITH US INFORMALLY BEFORE IT IS FROZEN IN CONCRETE VIA A FORMAL NOTE.

INCREASING US DEPENDENT HIRE IN THE FRG

14. TURNING MORE SPECIFICALLY TO THE QUESTIONS RAISED IN PARA 2 OF REFTL (B), THE FOREGOING INDICATES THAT NEITHER WE NOR USAREUR FELT ANY OPTIMISM THAT A WAY COULD BE FOUND FOR OBTAINING FRG AGREEMENT FOR SIGNIFICANT INCREASES IN AMERICAN DEPENDENT HIRE, EXCEPT THROUGH A CONTINUATION OF THE PRESENT TREND OF REDUCING THE NUMBER OF US TOURISTS AND RETIRED MILITARY IN LN POSITIONS AND REPLACING THEM BY DEPENDENTS. THE PRESSURES FROM THE FRG FOR CONCLUDING THE NEGOTIATIONS

STEMMING FROM THE APRIL 1976 HERMES LETTER, WITH AGREEMENT ON A FIXED CEILING, ARE SIMPLY TOO GREAT TO START OFF ON A NEW TACK AT THIS POINT. WE RECOGNIZE THE NECESSITY FOR REFUSING TO ACCEPT A CEILING, BUT AT THE SAME TIME WE CONSIDER SOME KIND OF ASSURANCES OF NO BASIC CHANGE IN THE PRESENT GENERAL SITUATION ESSENTIAL IF THERE IS TO BE ANY AGREEMENT AT ALL.

LABOR COST-SHARING

15. AS FOR THE OTHER QUESTION POSED IN PARAS 2 AND 9 OF REFTEL (B), THE EMBASSY VIEW IS THAT A PROPOSAL THAT THE FRG ENTER INTO A LABOR COST-SHARING ARRANGMENT MIGHT BE SEEN BY THE GERMAN SIDE AS A REQUEST FOR A NEW FORM OF OFFSET. SUCH A REQUEST, PARTICULARLY IF IT WERE TIED TO THE EXAMPLE CITED OF AN AGREED DM/DOLLAR EXCHANGE RATE FOR THE DM PAYROLL OF THE US FORCES, COULD ALSO TEND TO EXACERBATE EXISTING DISAGREEMENTS OVER MONETARY POLICY. IN SHORT, THE PROPOSAL WOULD TOUCH ON MATTERS CONFIDENTIAL

CONFIDENTIAL

PAGE 03 BONN 04860 05 OF 06 162026Z

THAT ARE SENSITIVE AT THE HIGHEST LEVEL OF THE FEDERAL GOVERNMENT. WHILE THE IDEA HAS OBVIOUS MERIT FROM A US BUDGETARY POINT OF VIEW, WE BELIEVE IT SHOULD BE LAUNCHED ONLY AFTER A DECISION AT HIGH LEVELS OF THE USG THAT CHANGED CIRCUMSTANCES NECESSITATE NEGOTIATIONS FOR FRG SUPPORT OF THIS TYPE. SUCH A DECISION SHOULD IDEALLY BE PRECEDED BY A REVIEW NOT JUST OF THE ISOLATED QUESTION OF DM PAYROLLS BUT ALSO OF OTHER ONGOING REQUESTS FOR INCREASED FRG EXPENDITURES ON DEFENSE MATTERS OF INTEREST TO THE US FORCES (HOST NATION SUPPORT, PREPOSITIONING OF EQUIPMENT, AWACS, AND THE LIKE).

COMMENT

16. AS BOTH STATE AND DOD HAVE BEEN KEPT INFORMED OF ALL SIGNIFICANT DEVELOPMENTS IN THESE NEGOTIATIONS TO DATE, USAREUR CONSIDERS THAT APPROVAL BY DOD OF THE NEGOTIATING POSITION IN PARAGRAPH 10 ABOVE WILL MEET THE REQUIREMENTS OF DOD DIRECTIVE 5530.3 (INTERNATIONAL AGREEMENTS).

17. WE SHOULD BE UNDER NO ILLUSIONS THAT THE NEGOTIATING PROPOSAL IN PARA 10 ABOVE WILL BE ATTRACTIVE TO THE FRG. FROM THE GERMAN STANDPOINT, THE PROPOSAL IS A MINIMAL ONE WHICH WILL GIVE THE FEDERAL GOVERNMENT VERY LITTLE TO DEMONSTRATE TO THE BUNDESTAG AND TO THE UNIONS THAT ITS TWO-YEAR NEGOTIATIONS WITH THE US HAVE BEEN EFFECTIVE. IT WILL CLEARLY BE RECOGNIZED AS CONSIDERABLY LESS THAN

CONFIDENTIAL

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PAGE 01 BONN 04860 06 OF 06 162032Z
ACTION EUR-12

INFO OCT-01 ISO-00 CIAE-00 PM-05 INR-10 L-03 ACDA-12
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H-01 /069 W
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P R 161945Z MAR 78
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CINC EUR VAIHINGEN
CINC USAREUR HEIDELBERG
CINC USAFE RAMSTEIN

C O N F I D E N T I A L SECTION 06 OF 06 BONN 04860

THE FINANCE MINISTRY STATE SECRETARY HAS ALREADY TOLD THE
BUNDESTAG HAS BEEN AGREED.

18. MOREOVER, USAREUR DOES NOT CONSIDER THAT THE
FORMULATION PROPOSED IN PARA 10.B. ABOVE ("NO SIGNIFICANT
CHANGES IN THE STATUS QUO ARE CONTEMPLATED") WOULD
CONSTITUTE A COMMITMENT NOT TO EXCEED 11,000 US CITIZENS
IN LN POSITIONS. THE USAREUR POSITION WOULD BE THAT,
ALTHOUGH WE DO NOT CONTEMPLATE EXCEEDING IT, SHOULD
UNFORESEEN CIRCUMSTANCES REQUIRE THAT IT BE EXCEEDED, NO
COMMITMENTS HAVE BEEN VIOLATED. IT MAY BECOME NECESSARY
TO MAKE THAT POINT CLEAR TO THE FRG DURING THE COURSE
OF THE NEGOTIATIONS IN ORDER TO AVOID FUTURE MISUNDER-
STANDINGS.

19. TO THE EXTENT THAT THE PRESSURES FOR PROMPT
CONCLUSION OF THE NEGOTIATIONS STEM FROM CONCERNS
(INDUCED BY THE PUBLICITY FLOWING FROM PUBLICATION OF THE
CONFIDENTIAL

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PAGE 02 BONN 04860 06 OF 06 162032Z

GAO REPORT IN DECEMBER 1977) THAT THE US FORCES ARE ABOUT TO LAY OFF GERMAN WORKERS, THE PROPOSED PACKAGE, WITH ITS FIRM ASSURANCES OF NO LAY-OFFS -- MIGHT BE ADEQUATE. ON THE OTHER HAND, AS NOTED ABOVE, THESE ARE NOT THE ONLY PRESSURES. THE OETV IS RELENTLESSLY, IN LABOR COURT CASES, WHITTling AWAY AT THE SPECIAL STATUS OF THE US AND OTHER SENDING STATE FORCES RECOGNIZED IN THE PROTOCOL OF SIGNATURE TO THE SA RE ARTICLE 56 (A) WHICH CAME INTO FORCE JANUARY 18, 1974, AND WHICH GIVES THEIR EMPLOYEES LESS THAN ALL THE COOPERATION AND CODETERMINATION RIGHTS AFFORDED TO GERMAN EMPLOYEES ELSEWHERE BY THE FRG PERSONNEL REPRESENTATION LAW. JUNG TOLD US THAT THESE EFFORTS WOULD CONTINUE, AND THAT ADVERSE DECISIONS WOULD BE APPEALED. AN ESSENTIALLY NEGATIVE USG POSTURE RE WHAT MAY BE A COMING BONA FIDE EFFORT BY THE FEDERAL GOVERNMENT TO MAKE DEPENDENT HIRE UNDER GERMAN WORKING CONDITIONS FINANCIALLY ATTRACTIVE, ALONG THE LINES OF SOME OF THE POINTS MADE BY THE GAO IN ITS REPORT, IS LIKELY TO BE RECEIVED WITH SOME DISMAY BY THE FOREIGN OFFICE AND THE FINANCE MINISTRY WHO CURRENTLY STAND BETWEEN US AND THE UNION. SHOULD THE GERMAN SIDE BELIEVE WE ARE NOT ADEQUATELY APPRECIATIVE OF LABOR PRESSURES AND THE NEED TO MEET GERMAN REQUIREMENTS HALF WAY, UNIONS MAY ACCELERATE EFFORTS TO PERSUADE US THAT DEPENDENT HIRE WILL BE TOLERATED ONLY UNDER THE KIND OF ARRANGEMENT THE GOVERNMENT WILL HAVE PROPOSED.

20. FOR NOW, HOWEVER, WE AGREE THAT WE HAVE LITTLE CHOICE BUT TO GO FORWARD WITH A POSITION SUCH AS THAT OUTLINED ABOVE, REFUSING TO ACCEPT A NUMERICAL CEILING. IN OUR VIEW, ANY CHANCE OF ITS ACCEPTANCE WILL DEPEND ON THE STRENGTH OF THE ACCOMPANYING ASSURANCES.
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PAGE 03 BONN 04860 06 OF 06 162032Z

21. ACTION REQUESTED: WASHINGTON REACTION TO THE RECOMMENDED NEGOTIATING POSITION IN PARA 10 ABOVE.
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
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Copy: SINGLE
Draft Date: 16 mar 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
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Disposition Case Number: n/a
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Disposition Event:
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Original Classification: CONFIDENTIAL
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Subject: ALLIED FORCES HIRING PRACTICES IN FRG
TAGS: PINT, PEPR, MARR, ELAB, GE, US
To: STATE DOD
Type: TE
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